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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/772,137	01/29/2001	Sokichi Nosaka		9546
7590	10/25/2006		EXAMINER	
WOOD, PHILLIPS, VAN SANTEN, CLARK & MORTIMER SUITE 3800 500 WEST MADISON STREET CHICAGO, IL 60661			CHARLES, MARCUS	
			ART UNIT	PAPER NUMBER
				3682

DATE MAILED: 10/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Communication Re: Appeal</b>	Application No.	Applicant(s)
	09/772,137	NOSAKA ET AL.
	Examiner Marcus Charles	Art Unit 3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

1.  The Notice of Appeal filed on \_\_\_\_\_ is not acceptable because:
  - (a)  it was not timely filed.
  - (b)  the statutory fee for filing the appeal was not submitted. See 37 CFR 41.20(b)(1).
  - (c)  the appeal fee received on \_\_\_\_\_ was not timely filed.
  - (d)  the submitted fee of \$\_\_\_\_\_ is insufficient. The appeal fee required by 37 CFR 41.20(b)(1) is \$\_\_\_\_\_.
  - (e)  the appeal is not in compliance with 37 CFR 41.31(a)(1) in that no claim has been twice rejected.
  - (f)  a Notice of Allowability, PTO-37, was mailed by the Office on \_\_\_\_\_.
  
2.  The appeal brief filed on 16 June 2005 is NOT acceptable for the reason(s) indicated below:  
*IS NOT IN ACCORDANCE WITH*  
 (a)  the brief ~~and/or brief fee is untimely~~, See 37 CFR 41.37(a). *→ SEE CONTINUATION ATTACHED.*  
 (b)  the statutory fee for filing the brief has not been submitted. See 37 CFR 41.20(b)(2).  
 (c)  the submitted brief fee of \$\_\_\_\_\_ is insufficient. The brief fee required by 37 CFR 41.20(b)(2) is \$\_\_\_\_\_.
  

The appeal in this application will be dismissed unless corrective action is taken to timely submit the brief and requisite fee. See 37 CFR 41.37(a)(1). Extensions of time may be obtained under 37 CFR 1.136(a). See 37 CFR 41.37(e).

  
3.  The appeal in this application is DISMISSED because:
  - (a)  the statutory fee for filing the brief as required under 37 CFR 41.20(b)(2) was not timely submitted and the period for obtaining an extension of time to file the brief under 37 CFR 1.136(a) has expired.
  - (b)  the brief was not timely filed and the period for obtaining an extension of time to file the brief under 37 CFR 1.136(a) has expired.
  - (c)  a Request for Continued Examination (RCE) under 37 CFR 1.114 was filed on \_\_\_\_\_.
  - (d)  other: \_\_\_\_\_.
  
4.  Because of the dismissal of the appeal, this application:
  - (a)  is abandoned because there are no allowed claims.
  - (b)  is before the examiner for final disposition because it contains allowed claims. Prosecution on the merits remains CLOSED.
  - (c)  is before the examiner for consideration.

*Marcus Charles*  
**MARCUS CHARLES**  
**PRIMARY EXAMINER**  
 1A4.3682  
 October 24, 2006

The appeal brief filed 6/16/2005 was filed under the rules set forth in 37 CFR 1.192 c), which was abolished on September 13, 2004. Accordingly, the brief does not comply with the new rules under 37 CFR 41.37c).

For information on the Rules of Practice Before the BPM," Final Rule at:  
<http://www.uspto.gov/web/offices/dcom/bpai/fr2004/> moreinfo.html.

*Charles*  
MARCUS CHARLES  
PRIMARY EXAMINER  
October 24, 2006